

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

3. On January 19, 2004, with the approval of the Medicaid unit, the petitioner had surgery to remove the excess

folds of flesh on her abdomen, known as a "panniculectomy." Her surgeon noted in a July 12, 2004 report that the pannus was the main focus of the surgery. He removed 4,230 grams of tissue from her stomach and, noting that she had a large mons pubic, suctioned 200 grams from her mons area. She did not have surgery excising any of the skin from her pubic area at that time. The physician provided DCF with the complete medical record from the surgery.

4. The liposuction procedure did not remove sufficient bulk from the petitioner's pubic area. The petitioner continued to have problems cleaning that area and in walking because the folds of flesh still hung several inches down between her legs. Photographs taken by the petitioner's physician on July 29, 2004, graphically document this phenomenon. Her physician recommended a full excision of the skin on the mons area and requested prior approval from Medicaid.

5. On May 11, 2004, the Medicaid division denied what it termed a request for a "panniculectomy" as not medically necessary because a "panniculectomy and liposuction of the mons pubis" had occurred in January of 2004. The review acknowledged that the new request was actually for an excision

of skin on the mons pubis only but called this request "duplicative" of the previous procedure.

6. DCF was given two weeks from the time that new photographs were submitted to conduct a further review of this case. On July 29, 2004, DCF indicated that it had reviewed the new information submitted at hearing but asked that the photos be provided along with a "second opinion" before a final decision was made.¹ The petitioner provided the photos on July 30.

7. It is found based on the credible testimony of the petitioner's treating physician that his request to be allowed to excise skin on the petitioner's mons pubis is both medically necessary to allow her to ambulate and avoid infection and not duplicative of the prior procedure which was merely a liposuction of some inner fat layers which proved to be insufficient to alleviate the petitioner's problems.

ORDER

The decision of the Department of Children and Family Services denying prior approval is reversed. This Order shall become effective on September 24, 2004 unless the Department obtains a second opinion, based on an examination of the

petitioner, that the surgery in question is not medically necessary. The petitioner is directed to comply with all reasonable requests by the Department regarding the scheduling of any such examination. If the Department chooses to obtain a second opinion, it must do so, and file any request for further consideration by the Board before September 24, 2004. Any dispute regarding the implementation of this Order must be referred to the Board (through its hearing officer) before September 24, 2004. Otherwise, this Order shall become effective on that date.

REASONS

DCF has procedures set forth in its policy manual which require it to review requests for surgery prior to authorization to "assure the appropriate use of health care services." M106. The regulations provide that "prior authorization of a covered health service will be approved if the health service . . . is medically necessary."² M106.3. DCF denied the petitioner's request because it was deemed a duplicative procedure and thus not medically necessary. Substantial and credible evidence from the petitioner's

¹ DCF maintains that the petitioner's attorney initially agreed to obtain a second opinion.

² Several other criteria must also be met which are not at issue here.

treating physician indicates that this procedure was not a duplication of a prior procedure and was necessary to prevent infection and to allow the petitioner to ambulate comfortably. Thus, the petitioner has demonstrated that she meets the above criterion for approval of her request for prior authorization of her skin excision.³ As DCF's decision is inconsistent with the facts and its regulation, the Board must reverse the decision. However, the Department shall have until September 24, 2005 to obtain a second opinion in accord with the above Order.

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³There is no contention by DCF that skin excision is not a covered service. This service had been provided to the petitioner previously with regard to the folds of skin on her stomach.